IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 7532 of 2007(S)

OP.330/2006 OF THE FAMILY COURT, KOTTARAKKARA
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PETITIONERS:
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1. RAJESH ARAVIND
S/O.ARAVINDAKSHAN NAIR,AGED 35 YEARS
PRESENTLY RESIDING AT 23,DEWS GREEN, BASILDON,
ESSEX UK SS16 4NS AND REPRESENTED BY HIS POWER
OF ATTORNEY ARAVINDAKSHAN NAIR S/O.SANKARA
NARAYAN PILLAI

2. ARAVINDAKSHA PILLAI
S/O.SANKARA NARAYANA PILLAI
AGED 69 YEARS, RESIDING AT PANCHJANYAM,
THETTIKULAM, PUTHEKULAM, PO.KOLLAM

BY ADV. SRI.P.RADHAKRISHNAN (1)
SRI.MADHU RADHAKRISHNAN
SRI.K.R.KRISHNA KUMAR

RESPONDENTS:

RAMYA
D/O.SYAMALA
AGED 27 YEARS, "SARANYA"
SIVANKOVIL ROAD,
PUNALUR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC,JJ.

W.P.(C).NO.7532 OF 2007

Dated this the 6th day of March, 2007

JUDGMENT

Raman,J.

The grievance of the petitioners is against an order was passed by the Family Court on 1/3/2007, which though not produced, is extracted in paragraph 6 of the writ petition, which reads as follows:

> "1/3/2007. Petitioner present. C.P. is reported to in U.K. Ornaments of the petitioner is kept in the locker in the name of CP2. CP2 had submitted on 9/10/2006 that he had no objection in opening the locker and giving the ornaments in it to the petitioner. The key of the locker with the petitioner. She is employed in Chennai has to rejoin on 5th of this month. In the circumstances, Advocate Shri Deepa, Commissioner, is deputed to operate the locker No.81, key No.39, Password SAN, of Kollam District Co-operative Bank, Paripalli Branch, to prepare an inventory of gold ornaments in it and to product them before court. Pay Rs.750/- as commissioner batta directly before 3/3/2007."

2. It is the contention of the petitioners that the consent given was that at the time of settling of all issues between the parties by filing of 13B petition even the gold could be returned. Therefore, the consent as such is not disputed. But according to them, such consent was to give the gold ornaments only at the time of final disposal of the 13B petition. According to them, gold ornaments are already now brought to the court and is being delivered to the petitioner before the Family Court. The divorce petition filed by the wife was decreed ex parte and the petitioners have filed an application for setting aside the ex parte order and pending. In the circumstances, the petitioners have filed this writ petition.

3. If what was recorded is not correct, it is open to the petitioners to seek review of

that order, which they have not done. Even now it is open to them to do so. If such an application is filed, we have no doubt in our mind that such application will be considered and appropriate orders passed thereon. If by the time the petitioners file any such application, the gold ornaments are not delivered to the respondent. We direct that until such time the order is passed on the review application, the delivery of the ornaments may be deferred.

Leaving open the right of the petitioners as stated above, this writ petition is disposed of.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.